



STATE OF IOWA
MASTER AGREEMENT

MA# 005 CT2958MVDTS 1
EFFECTIVE BEGIN DATE: 09-14-2005
EXPIRATION DATE: 10-31-2008
PAGE: 1 of 4

BUYER: RANDALL STAPP
Randall.Stapp@iowa.gov
515-242-5005

Ashley.Super@iowa.gov
515-281-7073

FOB

PAYMENT TERMS (%):

DAYS:

VENDOR:

Deters Tower Service Inc
PO Box 3873

Des Moines, IA 50323
USA

VENDOR CONTACT:

No Contact Specified

PHONE: 515 999-9999

EXT:

EMAIL:

VENDOR #: 42115268300

DESCRIPTION OF ITEMS CONTRACTED

Tower Maintenance Services per RFP BD80600S365.
Services on towers. See short form contract attached for labor prices.

RENEWAL PERIODS

FROM 11-01-2008 TO 10-31-2009

FROM 11-01-2009 TO 10-31-2010

FROM 11-01-2010 TO 10-31-2011

THRESHOLDS

MINIMUM ORDER AMOUNT:

MAXIMUM ORDER AMOUNT:

NOT TO EXCEED AMOUNT:

AUTHORIZED DEPARTMENT

ALL

SUB Political Sub-divisions

STATE OF IOWA
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LINE NO.	QUANTITY / SERVICE DATES	UNIT	COMMODITY / DESCRIPTION	UNIT COST / PRICE OF SERVICE
1	0.00000		93684	\$0.000000
			Towers, Radio/Radar, etc., Maintenance and Repair (Including	\$0.000000

TOTAL \$0.00

VENDOR:

APPROVED BY:

THIS MA IS SUBJECT TO THE TERMS
AND CONDITIONS ATTACHED HERETO.
PLEASE SEE ATTACHMENTS FOR
FURTHER DESCRIPTIONS.



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TERMS AND CONDITIONS

Incorporation

The Request for Proposal and/or bid documents for this project and the vendor's proposal in response to the RFP or Bid together with any clarifications, attachments, appendices, or amendments of the State or the Vendor are incorporated into this Contract by reference as if fully set forth in this Contract.

Remedies upon Default

In any case where the vendor has failed to deliver or has delivered non-conforming goods and/or services, the State shall provide a cure notice. The notice to cure shall state the maximum length of time the vendor has to cure. If after the time period stated in the notice to cure has passed, the vendor continues to be in default, the State may procure goods and/or services in substitution from another source and charge the difference between the contracted price and the market price to the defaulting vendor. The State's Attorney General shall be requested to make collection from the defaulting vendor.

Force Majeure

Force majeure includes acts of God, war, civil disturbance and any other causes which are beyond the control and anticipation of the party affected and which, by the exercise of reasonable diligence, the party was unable to anticipate or prevent. These provisions of force majeure also apply to subcontractors or suppliers of the Vendor. Force majeure does not include financial difficulties of the Vendor or any associated company of the Vendor, or claims or court orders that restrict the Vendor's ability to deliver the goods or services contemplated by this Agreement. Neither the Vendor nor the State shall be liable to the other for any delay or failure of performance of this Agreement caused by a force majeure, and not as a result of the fault or negligence of a party.

Subcontractors

The successful vendor shall be responsible for all acts and performance of any subcontractor or secondary supplier that the successful vendor may engage for the completion of any contract with the State. A delay that results from a subcontractor's conduct, negligence or failure to perform shall not exempt the vendor from default remedies. The successful vendor shall be responsible for payment to all subcontractors and all other third parties.

Termination-Non-Appropriation

Notwithstanding any other provision of this contract, if funds anticipated for the continued fulfillment of this contract are at any time not forthcoming or insufficient, either through the failure of the State to appropriate funds, discontinuance or material alteration of the program for which funds were provided, then the State shall have the right to terminate this contract without penalty by giving not less than thirty (30) days written notice documenting the lack of funding, discontinuance or program alteration.

Immunity of State/Fed Agencies

The vendor shall defend and hold harmless the State and Federal funding source for the State of Iowa from liability arising from the vendor's performance of this contract and the vendor's activities with subcontracted and all other third parties.

Assignment

Vendors may not assign contracts or purchase orders to any party (including financial institutions) without written permission of the General Services Enterprise - Purchasing.

Anti-Trust Assignment

For good cause and as consideration for executing this purchase order, the vendor, through its duly authorized agent, conveys, sells, assigns, and transfers to the State of Iowa all rights, title and interest in and to all causes of action it may now or hereafter acquire under the anti-trust laws of the United States and the State of Iowa, relating to the particular goods or services purchased or acquired by the State of Iowa pursuant to the using State of Iowa agency.

Delivery and Acceptance

When an award has been made to a vendor and the purchase order issued, deliveries are to be made in the following manner.

A. Deliveries - All deliveries are to be made only to the point specified on the purchase order. If delivery is made to any other point, it shall be the responsibility of the vendor to promptly reship to the correct location. Failure to deliver procured goods on time may result in cancellation of an order or termination of a contract at the option of the State.

B. Delivery Charges - All delivery charges should be to the account of the vendor whenever possible. If not, all delivery charges should be prepaid by vendor and added to the invoice.

C. Notice of Rejection - The nature of any rejections of a shipment, based on apparent deficiencies disclosed by ordinary methods of inspection, will be given by the receiving agency to the vendor and carrier within a reasonable time after delivery of the item, with a copy of this notice to the General Services Enterprise - Purchasing. Notice of latent deficiencies which would make items unsatisfactory for the purpose intended may be given by the State of Iowa at any time after acceptance.

Delivery and Acceptance (cont)

D. Disposition of Rejected item - The vendor must remove at the vendor's expense any item rejected by the State. If the vendor fails to remove that rejected item, the State may dispose of the item by offering the same for sale, deduct any accrued expense and remit the balance to the vendor.

E. Testing After Delivery - Laboratory analysis of an item or other means of testing may be required after delivery. In such cases, vendors will be notified in writing that a special test is being made and that payment will be withheld until completion of the testing process.

Title to Goods

The vendor warrants that the goods purchased hereunder are free from all liens, claims or encumbrances.

Indemnification

To the extent that goods are not manufactured in accordance with the State's design, the vendor shall defend, indemnify and hold harmless the State of Iowa, the State's assignees, and other users of the goods from and against any claim of infringement of any Letter Patent, Trade Names, Trademark, Copyright or Trade Secrets by reason of sale or use of any articles purchased hereunder. The State shall promptly notify the vendor of any such claim.

Nondiscrimination

The vendor is subject to and must comply with all federal and state requirements concerning fair employment and will not discriminate between or among them by reason of race, color, religion, sex, national origin or physical handicap.

Warranty

The vendor expressly warrants that all goods supplied shall be merchantable in accordance with the Uniform Commercial Code, Section 2-314 and the Iowa Code, Section 554.2314.

Taxes



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The State of Iowa is exempt from the payment of Iowa sales tax, motor vehicle fuel tax and any other Iowa tax that may be applied to a specified commodity and/or service. Contractors performing construction activities are required to pay state sales tax on the cost of materials. The Iowa Department of Revenue exemption letter will be furnished to a vendor upon request.

Hazardous Material

All packaging, transportation, and handling of hazardous materials shall be in accordance with applicable federal and state regulations including, but not limited to, the Material Safety Data Sheet provision of O.S.H.A. Hazard Communication Standard 29CFR 1910.1200, and Iowa Administrative Code, Chapter 567.

Public Records

The laws of the State of Iowa require procurement records to be made public unless exempted by the Code of Iowa.

Miscellaneous

The terms and provisions of this contract shall be construed in accordance with the laws of the State of Iowa. Any and all litigation or actions commenced in connection with this contract shall be brought in Des Moines, Iowa, in Polk County District Court for the State of Iowa. If however, jurisdiction is not proper in Polk County District Court, the action shall only be brought in the United States District Court for the Southern District of Iowa, Central Division, providing that jurisdiction is proper in that forum. This provision shall not be construed as waiving any immunity to suit or liability, which may be available to the State of Iowa.

If any provision of this contract is held to be invalid or unenforceable, the remainder shall be valid and enforceable.

Records Retention

The vendor shall maintain books, records, and documents which sufficiently and properly document and calculate all charges billed to the State of Iowa throughout the term of this Agreement for a period of at least five (5) years following the date of final payment or completion of any required audit, whichever is later. The vendor shall at, no charge, permit the Auditor of the State of Iowa, or any authorized representative of the State (or where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government) to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records, or other records of the vendor relating to orders, invoices, or payments documentation or materials pertaining to this Agreement.

Independent Contractor

The vendor is an independent contractor performing services for the State of Iowa, and as such shall not hold itself out as an employee or agent of the State.

Performance Monitoring

For all service contracts, the requirements of Iowa Code sections 8.47 shall be incorporated into final terms and conditions of the contract.

N30

NET 30 DAYS



Department of Administrative Services
General Services Enterprise

Date: December 7, 2005

1305 East Walnut Street
Hoover State Office Building, Level A
Des Moines, IA 50319-0105

CONTRACT AGREEMENT
No. CT2958MVDTS

SHORT FORM CONTRACT

Vendor

Deters Tower Service, Inc.
PO Box 3873
Des Moines, IA 50323

General Contract available
to all State Agencies and
political subdivisions.

CONTRACT PERIOD - Effective 12-07-05

Terminates 09-30-08

DESCRIPTION OF ITEMS CONTRACTED

General Contract for General Maintenance Services of Broadcasting and Communication Towers, pursuant to the specifications, terms and conditions of Bid No. BD80600S365 dated 08-01-05 on file with The Department of Administrative Services, GSE Purchasing, Hoover Building, Level A, Des Moines, Iowa 50319-0105.

Tower Maintenance Services may include such tasks as Inspection, Painting, Repair and Re-Lamping.

- 1) This contract may be mutually renewed on an annual basis pending satisfactory contractor performance and price stability. Total contract term can not exceed six years.
- 2) This contract does not guarantee the contractor any certain volume of sales. Individual Agencies or political subdivisions will issue specific work orders against the contract as needed upon receiving and agreeing to price quotations by contractor for specific work, without bid. No state agency or political subdivisions are required to use this contract. State Agencies and political sub-divisions may elect to conduct their own competitive selection process according to administrative rule for any specific work project.
- 3) The commencement and completion dates for specific projects shall be indicated in contractor quotes prior to beginning work orders issued by the agencies. The bidder shall be expected to estimate these to the best of their ability. The contractor shall include a detailed time line in number of working days on the expected delivery ARO of each of the deliverables in their quote. At the discretion of the State, failure to deliver within the quoted time line, plus ten (10) days, without just cause as allowed per section 2.6, will constitute default. Remedy may include a reduction in price(s), in the amount of 2%, for each day deliverable is late and / or may include forfeiture of any performance bond.
- 4) Payment Terms (Net 30 Days) and Acceptances: The Vendor shall submit invoices for payment to the agency issuing the specific work order.
- 5) Partial Payments on contract may be made monthly by means of a state warrant to the extent of ninety percent (90%) of the value of actual work performed, including material stored at the building site, as determined by the agency's Project Manager.
- 6) The Contractor shall submit to the agency's Project Manager an application in triplicate for each partial payment on an A.I.A. Form G702 and G703

and, if required, receipts or other vouchers from subcontractors showing his payment to them for materials and labor. Applications shall reflect the valuation of work completed and materials furnished during the previous month's period. "Materials furnished" means materials incorporated in the work and materials suitably stored at the site.

- 7) Final retainage shall not be released until at least thirty-one (31) days after completion and final acceptance of all work by the agency's Project Manager, verification of sales / use tax refund requests, and all other contract requirements have been fulfilled, accepted and approved. The Agency shall notify the Vendor in writing of any non-compliance and provide the Vendor an opportunity to cure any non-compliance. If the non-compliance is not cured within the requisite time frame set out in Subsection 2.6.2.1, the Agency may continue withholding ten (10) percent of any charges payable to the Vendor and may continue to withhold ten (10) percent of any succeeding payment until the non-compliance is cured, or the Agency may pursue other remedies available to it under the Contract.
- 8) No notification of payment being processed, no payment or partial payment made to the Contractor, nor the partial or entire use or occupancy of the work by the agency shall be held to constitute an acceptance, in whole or in part, by the agency prior to making the final payment and final acceptance in full completion of the contract.
- 9) The Agency, the Tower Owner or their assigned representatives shall have the right to perform periodic inspections during the construction process and will be notified by Contractor when specific milestones occur during the construction process such as completion of foundations, each guy level, final plumb and tension prior to addition of low frequency vibration devices.
- 10) Prior to final acceptance of the tower work, Owner or Agency reserves the right to perform final acceptance inspection by qualified representative either a direct employee or subcontractor to be chosen by Owner. Inspection shall consist of but not be limited to: plumb, tension, twist, torque, finish thickness and any other parameters deemed necessary by visual or mechanical means.
- 11) The Vendor shall maintain in effect insurance covering its work including Commercial General Liability Insurance of \$1,000,000 or more or as otherwise required by the agency from an authorized insurer. The Vendor's insurance shall insure against any loss or damage resulting from work performed under the Contract. All insurance policies shall remain in full force and effect for the entire term of the Contract. Each policy shall name the State of Iowa and all political subdivisions as an additional insured or loss payee, as applicable. The Vendor and any subcontractor performing work under the Contract shall provide certificates of the required insurance to the State at the time of execution of the Contract. Acceptance of the certificates shall not relieve the Vendor of any obligation under the Contract. The Contractor hereby agrees to defend, indemnify, and hold the Owner harmless from any loss resulting from bodily injuries, death, or damages to property arising directly or indirectly out of any act or failure to act on the Tower Contractor's part in the performance of the work undertaken under this contract. The Tower Contractor agrees to bind specifically every subcontractor to the applicable terms and conditions of the contract documents for the benefit of the Owner.
- 12) All insurance policies required by the Contract shall provide coverage for all claims arising from activities occurring during the performance of the Contract regardless of the date the claim is filed. The Vendor shall require any subcontractor to purchase and maintain similar policies of insurance as described in this Subsection.
- 13) At the Agency's sole discretion, the contractor may be required to post a Performance Bond prior to commencing work.

- 14) The Contract shall be construed and governed in accordance with the laws of the State of Iowa. Any and all litigation or actions commenced in connection with the Contract shall be brought in an appropriate Iowa forum.
- 15) The Contractor shall guarantee all work executed under this contract, both as to workmanship and materials, for a period of not less than one year after the date of final acceptance. Neither the final payment, nor any provision of the contract documents, shall relieve the Contractor of any responsibility for faulty materials or workmanship. And he shall remedy any defect thereto and pay for any damage to other work resulting therefrom, which shall appear within a period of one year from the date of final acceptance.
- 16) The vendor expressly warrants that all goods supplied shall be merchantable in accordance with the Uniform Commercial Code, Section 2-314 and the Iowa Code, Section 554.2314.

FOB POINT	DESTINATION
PAYMENT TERMS:	N30 days
VENDOR CONTACT:	Leo Deters
VENDOR PHONE:	515-986-2225
VENDOR I.D. NO.:	42115268300
PURCHASING CONTACT:	Ashley Super
PURCHASING PHONE:	515-281-7073
PURCHASING FAX:	515-242-5974
PURCHASING EMAIL:	<u>ashley.super@iowa.gov</u>
COMMODITY CODE:	93684 Tower Maintenance And Repair Services

RATES EFFECTIVE AUGUST 1, 2005 (SUBJECT TO CHANGE):

LABOR: \$ 75.00 straight time per hour, per man between 8:00 AM and 6:00 PM on weekdays excluding holidays. Minimum 4 hours per man.

 \$ 111.00 Overtime per hour, per man for work before 8:00 AM or after 6:00 PM on weekdays. Minimum: 8 hour charge per man.

 \$ 148.00 Holiday pay per hour, per man for work on holidays. Minimum 8 hour charge per man.

During adverse weather, the appropriate rate will be doubled. Once work begins, the above rates apply during idle time due to weather or parts delays. Labor rates include hand tools, work belts, standard insurance and small equipment, but not welders, materials, special insurance, winching equipment, guy tensioning equipment, or other items of unusual expense. Obtain quotes prior to start of job.

EXPENSES: Motel reimbursement plus \$ 25.00 food allowance per man, per night. Travel reimbursement at \$ 1.00 per mile for each vehicle used from point of departure and return. A fuel surcharge may apply if diesel fuel exceeds \$ 1.40 per gallon.

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Purchase Orders to show reference to above Contract Number

IN WITNESS WHEREOF, the parties have executed this agreement as of the date of signature by State of Iowa below.

For STATE OF IOWA:

Ashley Super, PA III
Department of Admin Services



Signature

Date

For Contractor:

Name: _____

Title: _____

Signature

Date